

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID KENDALE LAMB,

Plaintiff,

v.

CASE NO. 2:09-CV-15003  
HONORABLE PAUL D. BORMAN

WAYNE CO. PROSECUTOR,

Defendant.

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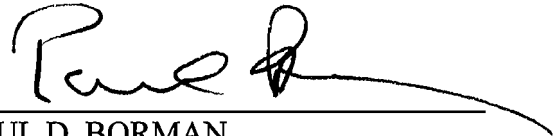
**ORDER GRANTING PLAINTIFF'S MOTION TO AMEND THE COMPLAINT**

Michigan prisoner David Kendale Lamb ("Plaintiff") has filed a *pro se* "Complaint for Declaratory Judgment Pursuant to Rule 57, 28 U.S.C. § 2201 and Preliminary Injunction Pursuant to Rule 65(a)" in which he contests certain evidence from his state criminal trial and seeks re-testing of gunshot residue from his pants and DNA testing of hairs recovered from baseball caps at the scene of the crime. This matter is before the Court on Plaintiff's motion to amend his complaint in order to provide a basis for the Court's jurisdiction and clarify that he is bringing this action as a civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff has submitted a proposed amended complaint with his motion.

Under the Federal Rules of Civil Procedure, a party may amend his or her pleadings once as a matter of course within 21 days after serving it or within 21 days after service of a responsive pleading. *See* Fed. R. Civ. P. 15(a)(1). Since a responsive pleading has not yet been ordered or filed in this case, Plaintiff has the right to amend the complaint without seeking

permission from the Court. Accordingly, the Court **GRANTS** Plaintiff's motion to amend and accepts his amended complaint for further review and consideration. The Court makes no determination as to the merits of the amended complaint at this time.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read "Paul D. Borman", written over a horizontal line.

PAUL D. BORMAN  
UNITED STATES DISTRICT JUDGE

DATED: 1-15-10